

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

GERALD CAIN, II

v.

DOUG DRETKE, ET AL.

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§


C.A. NO. C-04-364

**MEMORANDUM OPINION AND ORDER DENYING DEFENDANTS' MOTION  
TO DISMISS**

On May 3, 2006, the United States Magistrate Judge filed her Memorandum and Recommendation in this cause (D.E. 85). After ample opportunity, no objections have been filed by either party. This Court regards such omission as each party's agreement with and acceptance of the Magistrate Judge's findings of fact and conclusions of law. Having reviewed the pleadings on file, the Court finds no clear error in the Magistrate Judge's memorandum and recommendation. *Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). This Court adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, defendant's motion to dismiss for failure to exhaust administrative remedies (D.E. 77) is denied.

ORDERED this 13 day of June, 2006.

  
HAYDEN HEAD  
CHIEF JUDGE